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EXDIS

1. I MADE A FAREWELL CALL ON THIEU AT THE INDEPENDENCE PALACE AT 4:30, MONDAY. HE SEEMED WAN AND TIRED. IT WAS HIS FIRST DAY IN THE OFFICE SINCE HIS OPERATION. I WAS TOLD HE HAD COME THERE TO RECEIVE ME. HE DID NOT HAVE HIS USUAL BOUNCE.

2. I SAID HOW MUCH I HAD ENJOYED SEEING HIM DURING THE LAST PERIOD OF ALMOST TWO YEARS AND HOW MUCH I ADMIRER HIS PATRIOTISM, HIS SAGACITY, AND, IN PARTICULAR, HIS ABILITY TO BRING PEOPLE TOGETHER. THESE WERE VERY USEFUL GIFTS. I CITED WHAT HE HAD DONE WITH REGARD TO THE CONSTITUTION AND NATIONAL RECONCILIATION. I SAID I FELT THAT THESE TALENTS WOULD BE USEFUL IN THE FUTURE. HE THANKED ME.

3. HE AND I AGREED THAT THE ELECTION OF A CONSTITUTIONAL

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GOVERNMENT WOULD HELP VIETNAM VERY MUCH IN ITS FOREIGN RELATIONS. HE AGREED THAT HANOI WOULD REALIZE THAT -- WHETHER THEY ADMITTED IT PUBLICLY OR NOT -- CONSTITUTIONAL GOVERNMENT WOULD END ANY REALISTIC CHANCE OF A SO-CALLED "COALITION." THIEU EXCLAIMED THAT A REALLY NEUTRAL -- NOT "NEUTRALISTIC" -- SOUTH VIETNAM WOULD BE WONDERFUL AS THAT WOULD BE THE SAME THING AS INDEPENDENCE. THEY DO NOT ATTACK US AND, OF COURSE, WE DO NOT ATTACK THEM. LODGE

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REVIEWED BY Sam Zenberg DATE 10/5/81

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SUBJ: CONSTITUENT ASSEMBLY: RUN-OFF PROVISION FOR
PRESIDENTIAL ELECTIONS

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1. SEVERAL CA DEPUTIES HAVE TOLD US THAT THERE HAS BEEN MAJOR BATTLE IN CA'S PRESIDENTIAL ELECTION SUB-COMMITTEE OVER QUESTION OF WHETHER THERE SHOULD BE RUN-OFF PROVISION IN PRESIDENTIAL ELECTION LAW. SIX OUT OF TEN SUB-COMMITTEE MEMBERS, INCLUDING

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DEMOCRATIC-ALL INACE LEADER LE PHUOC SEOX, OPPOSE RUN-OFF PROVISION. SOUTHERN RENAISSANCE AND SOME GREATER PEOPLES BLOC DEPUTIES FAVOR IT. LATTER GROUP HAS SOMEHOW SUCCESSFULLY MANEUVERED TO GET SUB-COMMITTEE TO TEMPORARILY ACCEPT PRINCIPLE OF RUN-OFF IF NO CANDIDATE RECEIVES MORE THAN 35 PCT OF VOTE ON FIRST BALLOT; BUT SANG, WHOSE BLOC REPRESENTS NEAR MAJORITY OF CA, DETERMINED TO FIGHT PROVISION WHEN LAW DEBATED IN PLENARY SESSION.

2. OUR IMPRESSION IS THAT DIRECTORATE ITSELF SUPPORTING SANG. A NUMBER OF DEPUTIES WHO IN OUR JUDGEMENT FAVOR MILITARY CANDIDATE FOR PRESIDENCY (NGO THANH TUNG, NGUYEN HUU THONG, DINH THANH CHAU) HAVE TOLD US THEY THOUGHT IDEA OF RUN-OFF IMPRACTICAL. MEANWHILE, RENAISSANCE DEPUTIES AND GR. PHAM QUANG DAN ARE STRONGEST ADVOCATES OF SUCH PROVISION.

3. COMMENT: IT APPEARS THAT SUPPORTERS OF SOUTHERN CANDIDATES HUONG AND SUU BELIEVE THEIR CANDIDATES WOULD PROFIT BY A RUN-OFF WHEREAS GOVERNMENT SUPPORTERS THINK THE MILITARY CANDIDATE STANDS A BETTER CHANCE IN A SINGLE ELECTION.

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SAIGON 24048

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SUBJ: ELECTORAL LAWS

REF : A. SAIGON 23078

B. STATE 180379

1. REF A. GAVE WHAT WE CONSIDER FUNDAMENTAL CONSIDERATIONS WITH RESPECT TO LAW FOR PRESIDENTIAL ELECTIONS. MANY OF THESE CONSIDERATIONS APPLY EQUALLY TO LAWS GOVERNING ELECTIONS FOR UPPER AND LOWER HOUSES. IT IS PARTICULARLY IMPORTANT THAT THESE ELECTIONS PRESENT TO VIETNAMESE PEOPLE AND TO WORLD THE ACT OF

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FREE PEOPLE FREELY EXERCISING THEIR RIGHT TO CHOOSE THEIR OWN REPRESENTATIVES. SAFEGUARDS AGAINST FRAUD, EQUALITY FOR ALL CANDIDATES AND FULL PARTICIPATION BY WIDEST POSSIBLE ELECTORATE WILL ALL CONTRIBUTE TO THIS GOAL. CONSTITUENT ASSEMBLY ELECTION LAW HAD NO GLARING OMISSIONS IN THESE RESPECTS AND THAT LAW IS LIKELY TO SERVE AS BASIC MODEL FOR CA'S PRESENT WORK, PARTICULARLY FOR LOWER HOUSE ELECTION LAW.

2. BROAD OUTLINES OF UPPER AND LOWER HOUSE
SCRIBED BY ARTICLES 31 THROUGH 34 OF CON
UNRESOLVED QUESTIONS ARE SIZE OF BOTH CH.
OF LIST VOTING IN CASE OF UPPER HOUSE.

READY PRE-
MAJOR
MORTALITIES

① 3. ARTICLE 31 (1) OF CONSTITUTION SETS LO
BETWEEN 100 AND 200. ARTICLE 33 (1) SETS
BETWEEN 30 AND 60. IN BOTH CASES WE INCLINED TO FAVOR SMALLER
MEMBERSHIP WHICH WOULD MAKE HOUSES LESS UNWIELDY AND MORE
CAPABLE WORK WITH SPEED AND EFFECTIVENESS DEMANDED BY WARTIME
CONDITIONS. MOREOVER, AT SOME FUTURE DATE MEMBERSHIP OF HOUSES
COULD BE EXPANDED TO TAKE INTO ACCOUNT INCREASES IN POPULATION

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LIVING UNDER GVN CONTROL. IT IS LIKELY THAT CA WILL DECIDE TO SET MEMBERSHIP OF LOWER HOUSE SOMEWHERE IN VICINITY OF ITS OWN PRESENT MEMBERSHIP OF 117 OR ROUGHLY ONE SEAT PER 50,000 REGISTERED VOTERS WHICH STRIKES US AS REASONABLE FIGURE. WE DO NOT HAVE ANY SOLID INDICATION OF WHAT SIZE OF UPPER HOUSE MIGHT BE, ALTHOUGH RANGE OF POSSIBILITIES MOST FREQUENTLY MENTIONED IS FROM 30 TO 45 SENATORS.

4. PROCEDURES GOVERNING ELECTION OF SENATORS IS ALREADY CONTROVERSIAL ISSUE. ARTICLE 33 (2) OF CONSTITUTION STATES THAT ELECTION OF UPPER HOUSE IS AT LARGE, BY LIST VOTING AND ON BASIS OF PLURALITY. LISTS WILL INCLUDE FROM ONE-THIRD TO ONE-SIXTH OF UPPER HOUSE MEMBERSHIP. THUS IF, FOR EXAMPLE, MEMBERSHIP FIXED AT 40 AND SIZE OF LISTS AT 8, THEN FIVE LISTS RECEIVING MOST VOTES WILL COMPOSE NEW UPPER HOUSE. CONTROVERSIAL POINT IS ONE WHICH CA WAS UNABLE TO RESOLVE DURING DEBATE ON CONSTITUTION AND THUS HAS NOT YET BEEN SPECIFIED -- THAT IS, SHOULD VOTERS BE ALLOWED TO VOTE FOR THEIR SEVERAL FAVORITE LISTS OR SHOULD THEY BE LIMITED TO VOTING FOR ONLY ONE. FORMER WOULD TEND TO FAVOR COHESIVE MINORITY WHICH COULD CONCEIVABLY PUT

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UP AS MANY CANDIDATES AS THERE ARE SEATS AND SWEEP ENTIRE UPPER HOUSE. LATTER LIKELY ASSURE SIGNIFICANT MINORITY GROUPS OF A VOICE IN UPPER HOUSE. DEPUTIES CLOSELY IDENTIFIED WITH GVN (NGUYEN HUU THONG, DINH THANH CHAU, NGO THANH TUNG) SAY THEY FAVOR MULTIPLE-VOTE SYSTEM, THUS REFLECTING CONFIDENCE THAT GVN-SPONSORED SLATES WILL MAKE STRONG SHOWING IN RACE FOR UPPER HOUSE. ON OTHER HAND, OPPONENTS OF PRESENT GOVERNMENT SUCH AS GREATER PEOPLES BLOC LEADER NGUYEN VAN NGAI ADVOCATES CONFINING VOTER TO VOTE FOR ONE LIST WHICH WOULD GIVE REVOLUTIONARY DAI VIETS MUCH BETTER CHANCE OF HAVING AT LEAST ONE SUCCESSFUL LIST.

5. WE SEE NO USEFUL PURPOSE IN TAKING SIDES ON THIS ISSUE. WE MAY SEE ADVANTAGES OF ONE FORMULA OVER OTHER IN ABSTRACT BUT IT IS TOO DIFFICULT TO FORESEE WITH ANY CERTAINTY HOW APPLICATION OF EITHER ONE WILL WORK OUT IN PRACTICE. ACTUAL COMPOSITION OF LISTS FOR UPPER HOUSE ELECTIONS WILL BE AT LEAST AS IMPORTANT AS THEIR METHOD OF ELECTION.

6. PROBLEM OF ASSURING SATISFACTORY POPULAR MANDATE FOR LOWER HOUSE REPRESENTATIVES LIKELY PROVE DIFFICULT TO SOLVE. WE SEE NO DEVICE (WHICH IS BOTH PRACTICAL AND DEMOCRATIC) WHICH

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WOULD INSURE SMALL FIELD OF CANDIDATES. NEITHER GVN NOR MANY DEPUTIES LIKELY FAVOR RUN-OFF PROVISION. (NOR IN CASE ASSEMBLY ELECTIONS DOES IT SEEM PRACTICAL TO US IN VIEW HEAVY ADDITIONAL BURDEN ON ELECTORATE AND ELECTORAL MACHINERY INVOLVED). THIS, AS IN CASE OF CA THERE WILL UNDOUBTEDLY BE NUMBER OF REPRESENTATIVES IN LOWER HOUSE WHO WILL RECEIVE LESS THAN 20 PERCENT OF VOTE IN THEIR CONSTITUENCY. THIS ALSO PROBABLY OUTCOME IN CASE OF UPPER HOUSE. NEVERTHELESS, FUTURE LOWER HOUSE, LIKE CA, LIKELY BE CONSIDERED REPRESENTATIVE BODY WITH GOOD CROSS-SECTION OF NON-COMMUNIST VIETNAMESE SOCIETY. COMPOSITION OF UPPER HOUSE MAY TURN OUT TO BE LESS REPRESENTATIVE.

7. WE EXPECT LAWS FOR NATIONAL ASSEMBLY WILL COVER QUESTION OF PROVIDING EQUAL MEANS FOR CANDIDATES. WHILE GOVERNMENT BACKED CANDIDATES WILL UNDOUBTEDLY HAVE SOME ADVANTAGES, WE SEE NO PRACTICAL SAFEGUARDS BEYOND THOSE DISCUSSED IN REF A. IN OUR JUDGEMENT CA ELECTION LAW PROVIDES SUITABLE MODEL IN THIS REGARD.

8. CONSTITUTION DOES NOT SPECIFY WHAT BODY WILL ESTABLISH LIST OF CANDIDATES FOR NATIONAL ASSEMBLY NOR WHO WILL ACTUALLY

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SUPERVISE ELECTIONS. WHILE IT WOULD BE DIFFICULT TO CHARGE ENTIRE CA WITH THIS MISSION, ESPECIALLY SINCE MANY DEPUTIES WILL BE CANDIDATED THEMSELVES, WE FEEL SOME IMPROVEMENTS COULD BE MADE ON SYSTEM USED FOR CA ELECTIONS.

9. CA ELECTORAL LAW ASSIGNED MISSION OF SCREENING CANDIDATES TO COUNCILS WHOSE CHAIRMAN NORMALLY RANKING MAGISTRATE IN LOCALITY, I.E., A GVN OFFICIAL. POLLING STATIONS MANNED AND VOTES COUNTED BY LOCAL COMMITTEE, CHAIRMAN AND DEPUTY CHAIRMAN OF WHICH APPOINTED BY PROVINCE CHIEF. IN BOTH INSTANCES PROVISION MADE FOR PARTICIPATION BY VOTERS' REPRESENTATIVES AND IN FORMER FOR PROVINCIAL OR MUNICIPAL COUNCILLORS AS WELL. WE WOULD PREFER TO SEE THESE COUNCILS AND COMMITTEES CHAIRED BY AND COMPOSED OF PERSONS WHO COULD NOT REASONABLY BE CONSIDERED PARTIAL TO GOVERNMENT CANDIDATES. THERE ARE NUMBER OF WAYS THIS MIGHT BE ACHIEVED. CA MEMBERS WHO DO NOT INTEND RUN FOR LEGISLATURE COULD BE ASSIGNED MISSION OF ESTABLISHING LISTS OF CANDIDATES AND OVERALL SUPERVISION OF ELECTIONS. IN ADDITION TO VOTERS REPRESENTATIVES, MEMBERSHIP OF ELECTION COUNCILS AND COMMITTEES AT LOCAL LEVEL COULD BE DRAWN FROM RANKS OF MUNICIPAL AND PROVINCIAL COUNCILLORS WHO ARE NOT CANDIDATES. IN SOME CASES, NEWLY ELECTED VILLAGES AND HAMLET CHIEFS MIGHT ALSO PLAY USEFUL ROLE. WE WILL DISCUSS THESE POSSIBILITIES WITH APPROPRIATE OFFICIALS AND CA DEPUTIES.

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10. THE ASSEMBLY IS LIKELY TO CONSIDER BAN, SIMILAR TO THAT IN 1966 ELECTORAL LAW, ON CANDIDATES WHO ARE COMMUNISTS, PRO-COMMUNIST NEUTRALISTS, OR WHOSE ACTIONS ASSIST THE COMMUNISTS. WE WILL FOLLOW DEPARTMENT INSTRUCTIONS (REF B) ON THIS MATTER. WHETHER OR NOT SUCH LANGUAGE ACTUALLY USED, KNOWN COMMUNISTS ARE PRECLUDED FROM RUNNING BY ARTICLE 4 OF CONSTITUTION. IMPORTANT FACTOR IS THAT PROSPECTIVE CANDIDATES NOT BE ELIMINATED ARBITRARILY FOR THEIR POLITICAL VIEWS AND THIS IN LARGE MEASURE IS FUNCTION OF IMPARTIAL SCREENING PROCESS (PARA 8 ABOVE) RATHER THAN WORDING OF LAW.

August 24048

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11. IN REPLY YOUR QUESTION PARAGRAPH 2 REF B, AND OF APRIL HAS INDEED BECOME IMPOSSIBLE DEADLINE FOR COMPLETION OF ELECTORAL LAWS. MOST DEPUTIES NOW ESTIMATING THAT COMMITTEE DRAFT OF PRESIDENTIAL AND UPPER HOUSE LAWS WILL BE READY FOR DEBATE MAY 1 AND COMPLETED MAY 15. LOWER HOUSE LAW MAY BE FINISHED SOMEWHAT LATER. DEPUTIES DO NOT APPEAR CONCERNED THAT THEIR UNOFFICIAL DEADLINE WILL NOT BE MET. DIRECTORATE MIGHT SEEK EXPLOIT FAILURE TO MEET DEADLINE IF THEY ARE UNHAPPY WITH PROVISIONS OF THE LAW. WE HAVE NO INDICATIONS OF SUCH AN INTENTION, HOWEVER.

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